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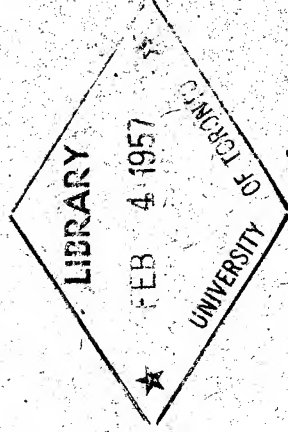
Fifth Session, Twenty-Second Parliament, 5 Elizabeth II, 1957.

THE SENATE OF CANADA

BILL R¹.

An Act to incorporate the Windsor Harbour Commissioners.

Read a first time, Tuesday, 29th January, 1957.



Honourable Senator MACDONALD

EDMOND CLOUTIER, C.M.G., O.A., D.P.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1957

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THE SENATE OF CANADA.

BILL R¹.

An Act to incorporate the Windsor Harbour Commissioners.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

Short title. **1.** This Act may be cited as the *Windsor Harbour Commissioners Act*.

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INCORPORATION.

Incorporation. **2.** There is hereby established a body corporate under the name of "Windsor Harbour Commissioners", hereinafter referred to as the "Corporation".

INTERPRETATION.

Definitions.	3. In this Act,	
"By-law."	(a) "by-law" means any by-law, rule, order or regulation made by the Corporation under the authority of this Act;	10
"Com- missioner."	(b) "commissioner" means a member of the Corporation;	
"Goods."	(c) "goods" includes all tangible personal property or movables other than vessels;	15
"Harbour."	(d) "harbour" means the harbour of Windsor as described in section 4;	
"Minister."	(e) "Minister" means the Minister of Transport;	
"Rate."	(f) "rate" means any rate, toll or duty whatsoever imposed by or under this Act; and	20
"Vessel."	(g) "vessel" includes any ship, boat, barge, raft, dredge, floating elevator, scow, seaplane on the water or other floating craft.	

EXPLANATORY NOTE.

The purpose of this Bill is to establish a Corporation to manage and develop the harbour at the City of Windsor in the Province of Ontario. The powers of the Corporation are similar to those of other harbour corporations established in the past.

Boundaries
of harbour.

4. (1) For the purposes of this Act, the harbour of Windsor comprises all the waters of the Detroit River within the following boundaries:

Commencing at a point where the ordinary high water line of the Detroit River intersects the easterly boundary of the City of Windsor, thence westerly along the ordinary high water line of the Detroit River to a point where the said line intersects the westerly boundary of the City of Windsor, thence northerly along the extended westerly boundary of the City of Windsor to a point where it intersects the International Boundary between Canada and the United States in the Detroit River, thence easterly along the said International Boundary to a point where it intersects the easterly extended boundary of the City of Windsor, thence southerly along the easterly extended boundary of the City of Windsor to the point of beginning and all water-front property, wharves, piers, docks, buildings, shores and beaches in or along the said waters.

(2) The Corporation may erect marks or signs to indicate the limits of the harbour and such marks or signs shall be held to determine, *prima facie*, the said limits.

CONSTITUTION.

Members of
Corporation.

5. The Corporation shall consist of three commissioners, one of whom shall be appointed by the Council of the City of Windsor and the other two by the Governor in Council.

COMMISSIONERS.

Tenure of
office.

6. (1) Each commissioner appointed by the Governor in Council shall hold office during pleasure for such term not exceeding three years as is fixed by the Governor in Council, and at the expiration of his term of office may be reappointed.

Council
members
ineligible.

(2) No member of the Council of the City of Windsor is eligible to be a commissioner.

Oath of
office.

7. Before a commissioner enters upon the execution of his duties as commissioner, he shall take and subscribe an oath that he will truly and impartially and to the best of his skill and understanding execute the powers vested in him as a member of the Corporation, and such oath 5 shall be filed on record in the office of the Corporation.

Chairman.

8. (1) The commissioners shall elect one of their number as Chairman.

Quorum.

(2) Two commissioners constitute a quorum for the transaction of the business of the Corporation. 10

Remunera-
tion of
members.

(3) The Chairman and other commissioners may be paid out of the revenues of the Corporation such remuneration for their services as the Governor in Council from time to time determines.

OFFICERS AND EMPLOYEES.

Officers and
employees
and their
compensation.

9. The Corporation may appoint a harbour master and 15 employ such other officers and employees as it deems necessary to carry out the purposes and provisions of this Act, and may prescribe the conditions of their employment and pay them such compensation or salaries as it deems fit.

GENERAL POWERS.

Jurisdiction
within
harbour.

10. Subject to this Act, the Corporation has juris- 20 diction within the limits of the harbour, but nothing in this Act gives the Corporation the right to enter upon or deal with any property of Her Majesty, except when authorized to do so by order of the Governor in Council, or gives the Corporation jurisdiction or control over 25 private property or rights within the limits of the harbour, except as provided in this Act.

Property.

11. (1) The Corporation may purchase, expropriate or otherwise acquire and hold, lease, sell or otherwise dispose of such land, buildings or other property, real or personal, 30 within the harbour as it deems necessary or desirable

for the development, improvement, maintenance, and protection of the harbour, or for the management, development or control of such property or for any of the other purposes of this Act, and may in its discretion invest the proceeds arising therefrom.

Administra-
tion of
Crown and
City
property.

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(2) The Corporation, subject to such terms and conditions as may be agreed upon at the time control thereof is transferred to it, may hold, develop, and administer on behalf of Her Majesty in right of Canada or the Council of the City of Windsor any property owned by Her Majesty in right of Canada or by the City of Windsor in or in the vicinity of the harbour.

Disposal of
land
acquired
from Crown.

(3) Notwithstanding anything in this Act, the Corporation shall not, without the previous consent of the Governor in Council, sell, alienate, mortgage or otherwise dispose of any land acquired by it from Her Majesty in right of Canada.

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Regulation
and control
of water-front
property.

12. (1) Subject to this Act, the Corporation may regulate and control the use and development of all land and other property on the water-front within the limits of the harbour and all docks, wharves, buildings and equipment erected or used in connection therewith, and may, for such purposes, make by-laws.

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Constructing
etc., of
harbour
facilities.

(2) The Corporation may construct, maintain and operate channels, docks, wharves, warehouses and other buildings, cranes and other machinery and equipment for use in the carrying on of the harbour or transportation business, and may sell or lease the same.

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Railways on
Corporation
lands.

(3) Subject to the provisions of the *Railway Act* that are applicable to the exercise of the powers granted by this subsection, the Corporation may,

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(a) construct, acquire by purchase, lease or otherwise, maintain and operate railways within the boundaries of the harbour and upon lands owned by or within the jurisdiction of the Corporation;

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(b) enter into agreements with any railway company for the maintenance by such company of the railways referred to in paragraph (a), and the operation thereof by any motive power, to be maintained and operated at all times in a manner that will afford all other railway companies whose lines reach the harbour the same facilities for traffic as those enjoyed by such company; and

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(c) make arrangements with railway companies and navigation companies for facilitating traffic to, from and in the harbour or for making connection between the lines or vessels of such companies and those of the Corporation;

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but nothing in this subsection shall be deemed to constitute the Corporation a railway company.

Harbour
machinery,
etc.

(4) The Corporation may own and operate by any motive power any kind of appliance, plant or machinery for the purpose of increasing the usefulness of the harbour or facilitating the traffic therein. 5

Works
subject to
*Navigable
Waters Pro-
tection Act.*

(5) Any work undertaken by the Corporation affecting the use of any navigable waters is subject to the *Navigable Waters Protection Act*.

BY-LAWS.

By-laws.

13. (1) The Corporation may make by-laws not inconsistent with this Act for the direction, conduct and government of the Corporation, its officers and employees, and for the administration, management and control of the harbour and the works and property therein under its jurisdiction, including, 15

(a) the regulation and control of the navigation and use of the harbour by vessels including their mooring, berthing, discharging and loading;

(b) the regulation and control of all works and operations within the harbour; 20

(c) the regulation, prohibition and control of the construction and maintenance of channels, docks, wharves, piers, buildings, or other structures within the limits of the harbour, and the excavation, removal or deposit of material, or any other action that is likely to affect in any way the docks, piers, wharves, or channels of the harbour or the lands adjacent thereto; 25

(d) the construction, regulation, operation and maintenance of railways, elevators, pipes, conduits and other works or appliances upon the docks, piers, wharves, or channels or any part thereof, and the control, regulation or prohibition of the erection of towers or poles, the stringing of wires or the use of any machinery that might affect any property or business owned, controlled or operated by the Corporation; 35

(e) the transportation, handling or storing within the harbour, including private property within the harbour, of explosives or other substances that, in the opinion of the Corporation, constitute or are likely to constitute a danger or hazard to life or property; 40

(f) the maintenance of order and the protection of property within the harbour, and the appointment of constables and such other officers as the Corporation deems necessary to enforce its by-laws as well as any statute or other law relating to the harbour; 45

(g) the prescribing of the punishment, by a fine not exceeding five hundred dollars or by imprisonment for a term not exceeding six months, or both, to be imposed upon summary conviction for the breach of any by-law; 5

(h) the government of all persons and vessels coming into or using the harbour, including the imposition and collection of rates to be paid upon such vessels and upon goods landed from or shipped on board such vessels, or transshipped by water within the harbour, 10 as the Corporation deems advisable according to the use that may be made of the harbour and its works and property; and

(i) generally, the doing of anything necessary to carry out the purposes and provisions of this Act. 15

Confirmation
and
publication.

(2) No by-law has effect until it has been confirmed by the Governor in Council and published in the *Canada Gazette*, and every by-law shall, at least ten days before it is submitted to the Governor in Council, be served upon the City Clerk of the City of Windsor. 20

Certified
copy as
evidence.

(3) A copy of a by-law certified by the secretary of the Corporation or a commissioner under the seal of the Corporation shall be admitted as full and sufficient evidence of such by-law in all courts in Canada.

BORROWING POWERS.

Power to
borrow and
issue
securities.

14. For the purpose of defraying the expenses of 25 constructing, extending and improving the wharves, structures and other accommodations in the harbour in such manner as the Corporation deems best calculated for facilitating trade and increasing the convenience and utility of the harbour, the Corporation, with the prior 30 approval of the Governor in Council, may

(a) borrow money in Canada, and elsewhere at such rates of interest as it finds expedient, and

(b) issue debentures for sums of not less than one hundred dollars, payable in not more than forty years, and, 35 subject to sections 10 and 11, such debentures may be secured upon the real property vested in or controlled by the Corporation.

FINANCES.

Charges
against
revenues.

15. (1) The revenues of the Corporation shall be charged with 40

(a) the costs of collecting such revenues;

- (b) the expenses incurred by the Corporation in operating, maintaining, administering and managing the harbour, works and property owned, controlled, administered or managed by the Corporation under this Act; 5
- (c) the interest and other charges incurred in connection with securities issued or money borrowed by the Corporation under this Act, including such amount as the Governor in Council approves for a sinking fund or other means to secure the repayment of such securities issued or money borrowed; and 10
- (d) any other expenses, other than capital expenses, lawfully incurred by the Corporation in carrying out the objects of this Act.

Remaining
revenues
payable to
Receiver
General.

(2) The revenues of the Corporation remaining at the end of a fiscal year after providing for the charges specified in subsection (1) and for such sum for working capital as in the opinion of the Minister is reasonable and necessary for carrying out the objects of this Act shall be paid by the Corporation to the Receiver General within four 20 months after the end of such fiscal year.

Accounts.

16. (1) The Corporation shall keep separate accounts for all moneys borrowed, received and expended by it under this Act and shall account therefor annually to the Minister in such form and manner as the Minister may 25 direct.

Inspection
of books.

(2) All books, accounts, records and documents of the Corporation shall be at all times open for inspection by the Minister or the Council of the City of Windsor or by a person authorized by the Minister or the Council for 30 such purpose.

EXPROPRIATION.

Expropria-
tion
proceedings
under
Railway Act.

17. (1) The Corporation, where it desires to acquire lands for the purposes of this Act and is unable to agree with the owner as to the price to be paid therefor, may acquire such lands without the consent of the owner, 35 and the provisions of the *Railway Act* relating to the taking of lands by railway companies are, *mutatis mutandis*, applicable to the acquisition of such lands by the Corporation.

Consent of
Governor in
Council.

(2) No proceedings by the Corporation for the expropria- 40 tion of the lands shall be commenced without the prior consent of the Governor in Council.

HARBOUR RATES.

Valuation of
goods under
Customs Act.

18. (1) The valuation of goods on which *ad valorem* rates are imposed by by-law shall be made in accordance with the provisions of the *Customs Act* as far as applicable and the provisions of that Act shall, for the purposes of such valuation, be held to form part of this Act as if embodied herein. 5

Rates
payable by
masters.

(2) The rates imposed by by-law upon the cargoes of all vessels shall be paid by the master or person in charge of the vessel, saving to him such recourse as he may have by law against any other person for the recovery of the amounts so paid, but the Corporation may demand and recover the rates from the owners, consignees, agents or shippers of such cargoes if it sees fit to do so. 10

Commuta-
tion, etc.,
of rates.

(3) The Corporation may, with the approval of the Minister, commute, reduce or waive any rates imposed by by-law on such terms and conditions as the Corporation deems expedient. 15

SEIZURES.

Seizure and
detention of
vessels.

19. The Corporation may seize and detain any vessel, at any place within the limits of the Province of Ontario, where 20

(a) any amount is due in respect of the vessel for rates or for commutation of rates and is unpaid; and

(b) the master, owner or person in charge of the vessel has in respect of such vessel violated the provisions of any by-law. 25

Seizure and
detention of
goods.

20. The Corporation may seize and detain any goods where

(a) any amount is due in respect of such goods for rates and is unpaid; or

(b) the provisions of any by-law have been violated in respect of such goods. 30

Detention
until charges
paid.

21. (1) Every lawful seizure and detention made under this Act is at the risk, cost and charge of the owner of the vessel or goods seized and all such vessels and goods may be detained until all amounts due and penalties incurred together with all proper and reasonable costs and charges incurred in the seizure and detention and the costs of any conviction have been paid in full. 35

When
seizure
may take
place.

(2) The seizure and detention may take place either at the commencement of any suit, action or proceeding for the recovery of any rates, amounts due, penalties or damages or pending such suit, action or proceedings or as incidental thereto or without the institution of any action or proceedings. 40

Who may
order
seizure.

(3) The seizure and detention may be effected upon the order of

(a) a judge of any court;

(b) a magistrate or justice of the peace having the power of two justices of the peace; or

(c) the collector of customs at the City of Windsor.

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Application
for and
execution of
seizure.

(4) An order for seizure and detention may be made on the application of the Corporation, its authorized agent or its solicitor, and may be executed by any constable, bailiff or other person entrusted by the Corporation with the execution thereof and such constable, bailiff or other person may take all necessary means and demand all necessary aid to enable him to execute the order.

GENERAL.

Who may
administer
oaths.

22. Where, by or under this Act, a person is required to take an oath, it may be administered by a commissioner, the secretary of the Corporation, the harbour master or a justice of the peace.

Pecuniary
dealings
with
members
prohibited.

23. The Corporation shall not have any transaction of a pecuniary nature, either in buying or selling, directly or indirectly, with any member of the Corporation.

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Limitations
of actions.

24. No complaint or information with respect to any violation of a by-law in force under this Act shall be made or laid after two years from the time the matter of the complaint or information arose.

COMING INTO FORCE.

Coming into
force.

25. This Act shall come into force on a day to be fixed 25 by proclamation of the Governor in Council.